IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24435 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DHARTI SAMUDAYIK SAHAKARI KHETI MANDALI LTD. - Petitioner

Versus

TORRENT POWER LTD. & 2 - Respondents

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Appearance :

MR BN PATEL for Petitioner.
NOTICE SERVED BY DS for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 29/01/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. The endorsement on the board indicates that all the three respondents are duly served with notice for final disposal of the petition, but, none of them has appeared either through its Lawyer or through its constituted agent, nor any of them has filed reply controverting the averments made in the petition. Therefore, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in the petition, upon the respondents. Having regards to the facts of the case, the petition is taken up for final disposal today.

2. By filing the instant petition under Article 226 of the Constitution, the petitioner i.e. Mr.Joitarambhai Ramdas Patel, who is Chairman of Dharti Samudayik Sahakari Kheti Mandli Ltd. Vibhag-1B, has prayed to direct the respondent No.1 i.e. Torrent Power Limited to provide electricity connections to 142 residential units constructed by him on the land bearing Final Plot No.28/1 of T.P.Scheme NO.29 at Gota, Ahmedabad,

without submitting Building Use Permission.

3. Final Plot No.28/1 of T.P.Scheme No.29, Sola-Gota-Chandlodiya, Taluka : Dascroi, District : Ahmedabad, belonged to Dharti Samudayik Sahakari Kheti Mandli Ltd., which was a Society registered under the provisions of the Gujarat Cooperative Societies Act, 1961. The said Society was bifurcated into two societies, which is quite evident from the copy of order dated September 21, 1998 produced by the petitioner at Annexure-A to the petition. After bifurcation, the land mentioned above belongs to Dharti Samudayik Sahakari Kheti Mandli Ltd., Vibhag-1B. The Chairman of the Society was desirous of developing the said land. Therefore, he applied to Ahmedabad Urban Development Authority to grant development permission. The record shows that the development permission was granted by Ahmedabad Urban Development Authority on April 14, 2005, which is quite evident from the contents of document produced at Annexure-C to the petition.

The case of the petitioner is that pursuant to the development permission, the petitioner has constructed 142 residential Units. After construction of residential Units was over, it was the duty of the petitioner to obtain Building Use Permission from the respondent No.3 and thereafter to apply to the respondent No.1 for supply of electricity connections to the residential units constructed by him. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for supply of electricity connections to the residential Units constructed by him. The said request has been turned down by the respondent No.1, which is quite evident from the contents of letter dated November 7, 2006 addressed by General Manager of the respondent No.1 to the petitioner. A copy of the said letter is produced by the petitioner at Annexure-D to the petition. By the said communication, the petitioner has been called upon to produce Building Use Permission to enable the respondent No.1 to

grant electricity connections to the residential Units constructed by him. Under the circumstances, the petitioner has filed the instant petition and claimed relief to which reference is made earlier.

4. The petition was placed for admission hearing before the Court on December 18, 2006 and after hearing the learned Counsel for the petitioner, notice for final disposal of the petition was issued. As noticed earlier, all the three respondents are duly served, but, none of them has appeared before the Court nor contested the petition.

5. This Court has heard Mr. B.N.Patel, learned Counsel for the petitioner and considered the documents forming part of the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if the following directions are issued:

(1) The petitioner will approach the Ahmedabad Urban Development Authority for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for providing electricity connections to 142 residential units constructed by him with a proper application/form/format and by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connections to 142 residential units constructed by the petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Urban Development Authority is not approached by the

petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to 142 residential units constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the residential Units constructed by the petitioner within a period of fifteen days.

(6) In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to 142 residential units constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the residential Units constructed by the petitioner.

(7) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the

Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply provided to 142 residential units constructed by him. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

[J.M.PANCHAL,J.]

[SMT.ABHILASHA KUMARI,J.]

(patel)